

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

DREW J. RIBAR,

Plaintiff,

v.

STATE OF NEVADA EX. REL.  
NEVADA DEPARTMENT OF  
CORRECTIONS, CARSON CITY AND  
ITS SHERIFFS OFFICE, CARSON  
CITY DISTRICT ATTORNEYS OFFICE,  
CARSON CITY MANAGERS OFFICE,  
FERNANDEIS FRAZAIER IN HIS  
OFFICIAL CAPACITY AS WARDEN OF  
NORTHERN NEVADA  
CORRECTIONAL, AARON RYDER IN  
HIS OFFICIAL CAPACITY AS AN  
OFFICER OF NEVADA DEPARTMENT  
OF CORRECTIONS, ROBERT SMITH  
IN HIS OFFICIAL CAPACITY AS AN  
OFFICER OF NEVADA DEPARTMENT  
OF CORRECTIONS, JASON BUENO  
IN HIS OFFICIAL CAPACITY AS AN  
OFFICER OF CARSON CITY  
SHERIFF, SEAN PALAMAR RYDER IN  
HIS OFFICIAL CAPACITY AS AN  
OFFICER OF CARSON CITY  
SHERIFF, TYSON DARIN LEAGUE  
RYDER IN HIS OFFICIAL CAPACITY  
AS AN OFFICER OF CARSON CITY  
DISTRICT ATTORNEY, JAMES  
DZURENDA (DIRECTOR NEVADA  
DEPARTMENT OF CORRECTIONS),  
JASON D. WOODBURY (CARSON  
CITY DISTRICT ATTORNEY),  
KENNETH T. FURLONG IN HIS  
CAPACITY AS SHERIFF CARSON  
CITY, NV, OFFICER/DEPUTY/J. DOE  
1-99,

Defendants.

Case No. 3:24-cv-00103-ART-CLB

ORDER TO SHOW CAUSE WHY  
REMOVAL WAS PROPER

On January 29, 2024, Plaintiff Drew J. Ribar filed the instant case in the First Judicial District Court of Nevada, alleging several federal constitutional and state law claims (ECF No 1-1.) Carson City Defendants timely filed a petition for

1 removal in the District of Nevada on February 29, 2024. (ECF No. 1.)

2 Under 28 U.S. § 1446(a)(2)(A), “When a civil action is removed solely under  
3 section 1441(a), all defendants who have been properly joined and served must  
4 join in or consent to the removal of the action.” 28 U.S. § 1441(a) permits removal  
5 based on original subject matter jurisdiction of the federal courts. “The defendant  
6 always has the burden of establishing that removal is proper,” *Hunter v. Philip*  
7 *Morris USA*, 582 F.3d 1039, 1042 (9th Cir. 2009). Federal courts must consider  
8 *sua sponte* issues that concern subject-matter jurisdiction. *Kwai Fun Wong v.*  
9 *Beebe*, 732 F.3d 1030, 1035–36 (9th Cir. 2013).

10 Carson City Defendants’ petition for removal cites 28 U.S.C. § 1441(a) as  
11 the basis for removal, as there is federal question jurisdiction over plaintiff’s  
12 constitutional claims under 28 U.S.C. § 1331. (ECF No. 1 at 2.) Thus, the  
13 requirement under 28 U.S. § 1446(a)(2)(A) that all properly joined and served  
14 defendants join or consent to removal applies.

15 Here, it appears that Carson City Defendants removed this action without  
16 several of the other Defendants listed in the state court complaint (ECF Nos. 1;  
17 1-1.) It does not appear that those Defendants were served with the petition for  
18 removal. (*Id.* at 4.) In the statement of removal, Carson City Defendants state that  
19 they “are not aware that any of the other Defendants were served prior to the  
20 Defendants’ filing of the Petition for Removal.” (ECF No. 6 at 3.) However, Plaintiff  
21 has submitted an affidavit alleging service of Defendants State of Nevada  
22 Department of Corrections, Smith, and Dzurenda on February 13, 2024. (ECF  
23 Nos. 18; 23; 28.) This calls into question whether removal without these  
24 Defendants was proper under § 1446(a)(2)(A).

25 As the removing defendant bears the burden of establishing that removal  
26 is proper, the Court orders Carson City Defendants to show cause why removal  
27 in this action without the joinder or consent of all other Defendants in the state  
28 court action was proper.

1 It is therefore ordered that the Carson City Defendants must file a response  
2 to this order to show cause by December 2, 2024.

3 It is further ordered that Plaintiff may file a response by December 12,  
4 2024.

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6 Dated this 22<sup>nd</sup> day of November, 2024.

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10 ANNE R. TRAUM  
11 UNITED STATES DISTRICT JUDGE  
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